

(b) The hours of rest required under paragraph (a) of this section may be divided into no more than two periods, of which one must be at least 6 hours in length.

(c) The requirements of paragraphs (a) and (b) of this section need not be maintained in the case of an emergency or drill or in other overriding operational conditions.

(d) The minimum period of 10 hours of rest required under paragraph (a) of this section may be reduced to not less than 6 consecutive hours as long as—

(1) No reduction extends beyond 2 days; and

(2) Not less than 70 hours of rest are provided each 7-day period.

(e) The minimum period of rest required under paragraph (a) of this section may not be devoted to watchkeeping or other duties.

(f) Watchkeeping personnel remain subject to the work-hour limits in 46 U.S.C. 8104 and to the conditions when crew members may be required to work.

(g) The Master shall post watch schedules where they are easily accessible. They must cover each affected member of the crew and must take into account the rest requirements of this section as well as port rotations and changes in the vessel's itinerary.

PART 16—CHEMICAL TESTING

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APPENDIX A [RESERVED]

APPENDIX B DRUG AND ALCOHOL TESTING MANAGEMENT INFORMATION SYSTEM (MIS) DATA COLLECTION FORM

AUTHORITY: 46 U.S.C. 2103, 3306, 7101, 7301, and 7701; 49 CFR 1.46.

SOURCE: CGD 86-067, 53 FR 47079, Nov. 21, 1988, unless otherwise noted.

Subpart A—General

§ 16.101 Purpose of regulations.

(a) The regulations in this part provide a means to minimize the use of intoxicants by merchant marine personnel and to promote a drug free and safe work environment.

(b) These regulations prescribe the minimum standards, procedures, and means to be used to test for the use of dangerous drugs.

(c) As part of a reasonable cause drug testing program established pursuant to this part, employers may test for drugs in addition to those specified in this part only with approval granted by the Coast Guard under 49 CFR part 40 and for substances for which the Department of Health and Human Services has established an approved testing protocol and positive threshold.

§ 16.105 Definitions of terms used in this part.

Chemical test means a scientifically recognized test which analyzes an individual's breath, blood, urine, saliva,

bodily fluids, or tissues for evidence of dangerous drug or alcohol use.

Crewmember means an individual who is:

(a) On board a vessel acting under the authority of a license, certificate of registry, or merchant mariner's document issued under this subchapter, whether or not the individual is a member of the vessel's crew; or

(b) Engaged or employed on board a vessel owned in the United States that is required by law or regulation to engage, employ, or be operated by an individual holding a license, certificate of registry, or merchant mariner's document issued under this subchapter, except the following:

(1) Individuals on fish processing vessels who are primarily employed in the preparation of fish or fish products, or in a support position, and who have no duties that directly affect the safe operation of the vessel;

(2) Scientific personnel on an oceanographic research vessel;

(3) Individuals on industrial vessels who are industrial personnel, as defined in this chapter; and

(4) Individuals not required under part 15 of this subchapter who have no duties that directly affect the safe operation of the vessel.

Dangerous drug means a narcotic drug, a controlled substance, or a controlled-substance analog (as defined in section 102 of the Comprehensive Drug Abuse and Control Act of 1970 (21 U.S.C. 802)).

Dangerous drug level means the amount of traces of dangerous drugs or drug metabolites in an individual's breath, blood, urine, saliva, or body fluids or tissues.

Drug test means a chemical test of an individual's urine for evidence of dangerous drug use.

Employer means a marine employer or sponsoring organization.

Fails a chemical test for dangerous drugs means that the result of a chemical test conducted in accordance with 49 CFR part 40 is reported as "positive" for the presence of dangerous drugs or drug metabolites in an individual's system by a Medical Review Officer in accordance with that part.

Intoxicant means any form of alcohol, dangerous drug, or combination thereof.

Marine employer means the owner, managing operator, charterer, agent, master, or person in charge of a vessel, other than a recreational vessel.

Medical Review Officer means an individual designated by the employer to carry out the duties specified in § 16.370 of this part.

Operation means to navigate, steer, direct, manage, or sail a vessel, or to control, monitor, or maintain the vessel's main or auxiliary equipment or systems. Operation includes:

(a) Determining the vessel's position, piloting, directing the vessel along a desired trackline, keeping account of the vessel's progress through the water, ordering or executing changes in course, rudder position, or speed, and maintaining a lookout;

(b) Controlling, operating, monitoring, maintaining, or testing: the vessel's propulsion and steering systems; electric power generators; bilge, ballast, fire, and cargo pumps; deck machinery including winches, windlasses, and lifting equipment; lifesaving equipment and appliances; firefighting systems and equipment; and navigation and communication equipment; and

(c) Mooring, anchoring, and line handling; loading or discharging of cargo or fuel; assembling or disassembling of tows; and maintaining the vessel's stability and watertight integrity.

Passes a chemical test for dangerous drugs means the result of a chemical test conducted in accordance with 49 CFR part 40 is reported as "negative" by a Medical Review Officer in accordance with that part.

Positive rate means the number of positive results for random drug tests conducted under this part plus the number of refusals to take random tests required by this part, divided by the total number of random drug tests conducted under this part plus the number of refusals to take random tests required by this part.

Refuse to submit means that a crewmember fails to provide a urine sample as required by 49 CFR part 40, without

a genuine inability to provide a specimen (as determined by a medical evaluation), after he or she has received notice of the requirement to be tested in accordance with the provisions of this part, or engages in conduct that clearly obstructs the testing process.

Serious marine incident means an event defined in 46 CFR 4.03-2.

Sponsoring organization is any company, consortium, corporation, association, union, or other organization with which individuals serving in the marine industry, or their employers, are associated.

Vessel owned in the United States means any vessel documented or numbered under the laws of the United States; and any vessel owned by a citizen of the United States that is not documented or numbered by any nation.

[CGD 86-067, 53 FR 47079, Nov. 21, 1988; 53 FR 48367, Nov. 30, 1988, as amended by CGD 90-014, 56 FR 31033, July 8, 1991; CGD 90-053, 58 FR 31107, May 28, 1993; CGD 93-051, 59 FR 28792, June 3, 1994; 59 FR 62226, Dec. 2, 1994; CGD 91-223, 60 FR 4525, Jan. 23, 1995]

Subpart B—Required Chemical Testing

§ 16.201 Application.

(a) Chemical testing of personnel must be conducted as required by this subpart.

(b) If an individual fails a chemical test for dangerous drugs under this part, the individual will be presumed to be a user of dangerous drugs.

(c) If an individual holding a license, certificate of registry, or merchant mariner's document fails a chemical test for dangerous drugs, the individual's employer or prospective employer shall report the test results in writing to the nearest Coast Guard Officer in Charge, Marine Inspection (OCMI). The individual shall be denied employment as a crewmember or removed from duties which directly affect the safe operation of the vessel as soon as practicable and shall be subject to suspension and revocation proceedings against his or her license, certificate of registry, or merchant mariner's document under 46 CFR part 5.

(d) If an individual who does not hold a license, certificate of registry, or

merchant mariner's document fails a chemical test for dangerous drugs, the individual shall be denied employment as a crewmember or removed from duties which directly affect the safe operation of the vessel as soon as possible.

(e) An individual who has failed a required chemical test for dangerous drugs may not be reemployed aboard a vessel until the requirements of § 16.370(d) of this part and 46 CFR part 5, if applicable, have been satisfied.

[CGD 86-607, 53 FR 47049, November 11, 1988, as amended by CGD 90-014, 56 FR 31034, July 8, 1991]

§ 16.205 Implementation of chemical testing programs.

(a) When a vessel owned in the United States is operating in waters that are not subject to the jurisdiction of the United States, the testing requirements of §§ 16.210 and 16.230 do not apply to a citizen of a foreign country engaged or employed as pilot in accordance with the laws or customs of that foreign country.

(b) Upon written request of an employer, Commandant (G-MOA) will review the employer's chemical testing program to determine compliance with the provisions of this part.

[CGD 90-014, 56 FR 60930, Nov. 30, 1991, as amended by 59 FR 62226, Dec. 2, 1994; CGD 95-072, 60 FR 50461, Sept. 29, 1995; CGD 96-041, 61 FR 50726, Sept. 27, 1996; CGD 95-028, 62 FR 51196, Sept. 30, 1997]

§ 16.207 Conflict with foreign laws.

(a) This part applies to the testing of all U.S. crewmembers onboard U.S. vessels operating in waters that are subject to the jurisdiction of a foreign government on and after January 2, 1997; however, implementation may be delayed until July 1, 1997.

(b) Employers for whom compliance with this part would violate the domestic laws or policies of another country may request an exemption from the drug testing requirements of this part by submitting a written request to Commandant (G-MOA), at the address listed in § 16.500(a).

[CGD 95-011, 61 FR 66613, Dec. 18, 1996]